

## **Membership Comments to Independent Insurance Agents of Virginia**

On behalf of the Virginia Association of Mutual Insurance Companies (VAMIC), I would like to share with IIAV our continued concern over the many mortgage companies and service firms that continue to routinely fail to pay, or pay late escrowed premiums. The concern this causes to the insured when he becomes aware that coverage is no longer provided, the issues that arise if a loss ensues, the extra work for agents to resolve the situation, and the forced placement of coverage by the lender after cancellation are significant issues for homeowners in the Commonwealth. Please feel free to share these concerns with appropriate elected officials in any effort to bring about a resolution.

This issue has been discussed by VAMIC members on at least four occasions and most recently at our annual convention this August. All members reported some degree of difficulty and for some it is a major concern. At our company, we started tracking these late/no payments in November 2002. At that time we found 30% of all cancellations for non payments were from mortgage companies. We have done periodic samples since and found similar results. Our latest work was July of this year. Another of our members reported that as of August this year, 13.5% of the late payments were from escrowed accounts and the number was rising. Mortgage companies have admitted losing the bills and we know that homeowners have refinanced in recent years. However, in this highly regulated world, the mortgage company which is paid to handle the escrow, owes a fiduciary duty to the homeowner to timely pay for the insurance protection both he and the lender need.

Please let me know if VAMIC can assist in helping resolve this issue in Virginia.

Best regards,



**NORTHERN NECK  
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Thomas A. Gosse, President and Chief Executive Officer  
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As discussed earlier, we had to put in a manual procedure in our accounting department to allow for late renewal payments from mortgage companies on homeowner policies. The problem was renewal premiums being received after our normal due date. As you know, the mortgage company will send one check for numerous policies. It was not unusual for one or more policies included on the check to be past the renewal "lapse" date. Rather than lapse the policy and jeopardize the insured's coverage or ability to obtain other coverage, we had a procedure to make an "exception" for those policies. Can give you more detail if you want.

Joe Hudgins CPCU  
Virginia Mutual Ins. Co.

**From:** Customer Service [mailto:customerservice@rhbins.com]  
**Sent:** Tuesday, August 22, 2006 12:46 PM  
**To:** Robert Bradshaw  
**Subject:** Canceled Homeowners policies

Bob: This agency continues to experience problems with homeowner cancellation due to non payment or late payment of premiums from escrow accounts. It seems the bigger national and regional banks cause the most problems, as they frequently will change locations/addresses for billing with no pre notice of said change. The invoice from the insurance company or this agency is ignored, ends up in never-never land, or is returned to the sender after a lengthy delay, causing a cancellation.

Hey Bob,

This is a major problem for us and most of it is due to our NOT being notified when the service company changes. I thought that notification was a legal requirement made several years ago.

We spend a lot of time each month rectifying renewal issues because of this.

Let us know what we can do to help!!!

Anitra D. Archer  
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**From:** Dove Insurance  
**To:** Rbradshw@iilav.com  
**Sent:** Thursday, August 17, 2006 12:56 PM  
**Subject:** VHC Mortgage Workgroup

Received your postcard alert today. I could get on my soapbox about this! As an agent this has been an issue for several years. Cancellations have occurred. Companies have changed their rules for what they allow in the way of late payments with no lapse, even when escrowed. Issues with mortgage companies and homeowners insurance coverage take up a couple of hours of my time each week.

Late payments affect the customers standing with the insurance company. Late escrowed payments by the mortgage company reflects negatively for the customer and this should not be allowed to happen.

Late fees have been added which the mortgage companies pass on to the client. If the mortgage company is late in paying, they should absorb this cost. We try to contact mortgage companies when we receive a pending cancellation, but at that point, we need the money immediately. We have had mortgage companies overnight premiums to us and then charge the customers accounts for the overnight fees. This too is something the mortgage company should absorb.

This is not an insurance company problem- this is a mortgage company problem. Bills are sent out 6-8 weeks PRIOR to renewal. Paying on time should not be a problem for these businesses.

Another problem is mortgages are sold and many times the customer is not told. This results in bills going to the wrong mortgagee and notice is not sent to insurance companies or the customers. We also find that proof of insurance is mailed by the company, again by our agency, then faxed by our agency and still the customer receives a letter from the mortgage company that they have no insurance. Mortgage companies need to do a better job of matching the policies up with their clients.

Need I say more. Anything that can be done to fix this problem would be GREATLY appreciated.

Elaine Dove  
Dove Ins Agency

**[NOTE: Virginia passed legislation in 2001 requiring mortgage holder to notify insurance companies of changes of address within 30 days. This section of the Code applies to Virginia chartered banks/mortgage servicing companies and have been told by national firms that this Code section does not apply to them.**

**§ 6.1-423. Escrow accounts.**

All moneys required by a mortgage lender required to be licensed under this chapter to be paid by borrowers in escrow to defray future taxes or insurance premiums, or for other lawful purposes, shall be kept in accounts segregated from accounts of the lender, and shall not be commingled with other funds of the lender. No licensed mortgage lender shall require any borrower to pay any moneys in escrow to defray future taxes and insurance premiums, or for any other purpose, in connection with a subordinate mortgage loan as referred to in Chapter 7.3 (§ 6.1-330.49 et seq.) of this title, except where escrows for such purposes are not being maintained in connection with the mortgage loan superior to such subordinate mortgage loan. **Mortgage lenders holding money in escrow for insurance premiums shall notify the insurer in writing within thirty days of a change of the mortgage lender's billing address, or sixty days prior to the renewal date of the insurance policy, whichever is later.**

(1987, c. 596; 2001, c. 504.)

I am writing in response to your card our office received concerning the topic of mortgage service companies paying escrow accounts on time. We are faced with this everyday and it causes all kinds of problems for us as agents and our insured's. It is time consuming for us and the insured gets very upset thinking that the agent is not doing their job. The mortgagees are holding this money until the last minute and this is unfair to the insured.  
Jackie Turman Eades & Lower Inc.

We have had incidents when the Mortgage Co. has failed to make the renewal payments on time and the policy has cancelled. This does not happen very often in our agency, but about 3 - 4 times a year.

Debbie Braswell  
Shirley T. Holland Insurance Agency, Inc.  
P. O. Box 54  
Windsor, Va. 23487

We received your postcard today regarding the Virginia Housing Commission Mortgage Workgroup.

We see the late payment of insured's premiums by mortgage companies as a continuing problem. My wife Sheila, who handles the bulk of our personal lines, spends hours chasing down payments, often having mortgage companies overnight payments (if they are willing to do so). In some cases the insured's coverage will lapse (with possible reinstatement once the premium is received. There is a huge exposure for an uninsured loss.

If you need any specifics, you can reach Sheila at our office number which is 757-431-0411.

Thanks for getting involved in this issue. We need some help!

George  
George Duvall  
Virginia Insurance Marketing, Inc.  
Virginia Beach, Va.

Bob, I'm so glad this is being addressed as it is a problem that we encounter many times. What concerns me is the time we spend assisting our client as so many of the mortgage companies declare they don't have the renewal billing and many, many time the address is exactly as it needs to be for the bill delivery. Keep us posted.

Thanks,

**Janie Spears**

Cowne & Weybright, Inc.  
703 368 2151  
703 368 7054 Fax

**From:** jtavares.middl08 [mailto:jtavares.middl08@insuremail.net]  
**Sent:** Wednesday, August 16, 2006 1:30 PM  
**To:** Robert Bradshaw  
**Subject:** Mortgage Workgroup

I have several mortgage companies that like to wait until 2-3 days before the due date before sending out the premium to the insurance company. They have in their mind the "automatic grace period of 30 days" and so many companies will accept the mortgage company's payment after

the due date. But, we also have some companies that full payment must be received if not by the renewal date at least within 15 days after. You then have the mortgage companies that send a "batch" check with just the last name of the insured and of course various due dates. Our hope is that when the insurance company receives the check that they are able to post the right amount with the right insured prior to cancellation date. The mortgage companies seem to state that they do not get the renewal bill from the companies when we know that they do. I agree that sometimes the payment office address will change from time to time but their mail is forwarded to their new address. Another problem that we encounter is when they say that they will overnight the premium to the company-what they really mean is that they will code that information into the computer and then it gets passed on to someone else's desk where it may sit for 2-3 days before being mailed out. Bottom line-they are going to hold onto the clients monies and gain as much interest as possible before cutting the check to the companies. It should be an interesting workgroup!!

Mr. Bradshaw:

This issue is very important. Abn Amro was one of the worst that I have ever seen, as far as getting payments in on time. We saw several applications go weeks past the due date and the customer would have to pay a reinstatement fee and sign paperwork. In some extreme cases, it would be months before they would contact us wanting to know where the renewal was, we had properly notified them and the customer that the policy had cancelled for non-payment. The customer just assumes that since it is a bank or mortgage company they will just take care of it, even though several notices have been sent. When they do contact their lender, they tell them that it has already been taken care of, when in fact it has not.

I had a lady this week that did not realize that her mtg co had not paid her ins and the policy cancelled 7/14/06. They also last year let her flood insurance cancel.

I hope that we can help in some way.

Tina Lane

I work for Campbell Insurance in Lynchburg as an account manager for personal lines. There is definitely a growing problem with mortgage companies making escrow payments on time. It results in late notices being sent, cancellation notices being issued, extra work for the agencies, and some unhappy customers. I appreciate this opportunity to "sound off". Thanks.  
Delores Cheatham

Yes, we have seen this as a problem more so in the past than very recently.

One situation that stands out with us was in 2003. GMAC Mortgage Corp. failed to pay an escrow premium and our customer's policy lapsed.

Even

though it was not the client's fault, they had to re-apply for coverage with the same carrier, be underwritten, property inspected, review previous pay history (well that did not look good obviously!) and then the company would

see if it qualified. Now that is pretty aggravating.

Hope this helps.

Thompson Insurance Agency, Inc.  
Keysville, VA 23947

This is still a problem. We just had a cancellation last week. The mortgagee, JPMorgan Chase miss paid an account to Norfolk and Dedham instead of Northern Neck. Norfolk and Dedham returned the payment to them and it took 6 weeks to get it straight. Thanks.  
Bob Thompson, Thompson Ins. Services, Chatham, Va

We had such a difficult time with cancellations and late fees that Northern Neck Insurance Company adjusted their payment to allow the mortgage company to pay up to 30 days late!

That is pretty sad to me and speaks volumes as to the abuse of many of the mortgage companies.

Francine Deir  
Gifford Insurance Agency  
Norfolk, VA

Washington Mutual and Citi Mortgage are the two repeat offenders we have to follow up on for payments. Let me know if you need more information. Later...

Please acknowledge receipt by return e-mail.

Regards,

Al Baughman, AIM, LUTCF

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## **Frequently Asked Questions About RESPA**

RESPA stands for "Real Estate Settlement Procedures Act." This is the law that says that you should be given certain information when you are purchasing a home. HUD enforces only what is covered under the RESPA law. Here are some questions and answers that will help you to understand the law and your rights.

**1. Dealing with Your Lender or Insurance Company:  
Taxes, Insurance, RESPA and Escrow**

**Question: I got a notice from the county that my lender did not pay my taxes on time and the county is assessing a penalty. Do I have to pay this bill?**

Answer: Send the bill to the lender. The lender should pay the penalty for failing to pay the taxes on time as long you were current in your mortgage payments. If the lender refuses, you may wish to follow the guidelines for filing a complaint.

**Question: Are lenders required to pay taxes on an annual basis if a discount is offered to the consumer?**

Answer: No. The Department published a new rule in the Federal Register in January 1998. The rule clarifies what a lender should do when a taxing jurisdiction offers a choice of payment on an installment basis or an annual basis. If there is a discount to the consumer when disbursing on an annual basis or there is an additional charge for disbursing on an installment basis, the lender may disburse on an annual basis. Otherwise, the lender should disburse tax payments on an installment basis. The borrower and the lender may mutually agree to another disbursement basis or date. The Department encourages lenders to follow the preference of the borrower.

**Question: What steps should I take if the lender does not pay my hazard insurance on time or at all and my insurance is canceled?**

Answer: Lenders are required by Section 6 to make escrow account disbursements on time. If a lender fails to do so, a borrower may bring a private law suit under this Section. Therefore, if you incur any damages due to the lender's negligence, you may wish to consult an attorney.

You should also contact your lender immediately and send a copy of the bill. Some lenders list a special address and/or FAX number for insurance and tax bills. Keep checking with the insurance company to make certain the bill is paid. You may wish to pay the insurance company directly to avoid cancellation of your policy and then seek a refund from your lender. Keep

copies of all your correspondence and payments. If you incur any damages due to the lender's negligence, you may wish to consult an attorney.

**Question: I got a notice that my hazard insurance has been canceled. My lender force-placed hazard insurance with a different company and it costs a lot more. Can a lender do this?**

Answer: As long as your mortgage payment is not more than 30 days late, Section 6 of RESPA requires the lender to make escrow payments, for taxes, insurance, etc., in a timely manner. You should write to your lender and complain. If your lender does not refund the difference or otherwise resolve your complaint satisfactorily, you may wish to file a complaint with HUD or the Consumer Protection Office of your State Attorney General's Office. You may also wish to consult an attorney.

**Question: My loan was transferred to a new lender. I made my loan payment on time, but to the old lender. Can I be charged a late fee?**

Answer: No. For 60 days, neither lender may charge a late fee as long as you make your payment on time to the previous lender or to the new lender. Your lender must send you a notification 15 days before your payment is due to the new lender. Both lenders must provide you with certain information about the loan transfer, including: when the payment is due to the new lender, the new lender's address, toll-free telephone numbers, etc.



This page is located on the U.S. Department of Housing and Urban Development's Homes and Communities Web site at <http://www.hud.gov/offices/hsg/sfh/res/sc2sectj.cfm>.



## Your Right to File Complaints

### Disclaimer

**Private Lawsuits.** If you have a problem, the best place to have it fixed is at its source (the lender, settlement agent, broker, etc.). If that approach fails and you think you have suffered because of a violation of RESPA, ECOA or any other law, you may be entitled to sue in a federal or state court. This is a matter you should discuss with your attorney.

**Government Agencies.** Most settlement service providers are supervised by a governmental agency at the local, state and/or federal level, some of which are listed in the Appendix to this Booklet. Your state's Attorney General may have a consumer affairs division. If you feel that a provider of settlement services has violated RESPA or any other law, you can complain to that agency or association. You may also send a copy of your complaint to the HUD Office of Consumer & Regulatory Affairs. The address is listed in the Appendix.

**Servicing Errors.** If you have a question any time during the life of your loan, RESPA requires the company collecting your loan payments (your "servicer") to respond to you. Write to your servicer and call it a "qualified written request under Section 6 of RESPA." A "qualified written request" should be a separate letter and not mailed with the payment coupon. Describe the problem and include your name and account number. The servicer must investigate and make appropriate corrections within 60 business days.

Content updated November 28, 2001

**U.S. Department of Housing and Urban Development**  
451 7th Street, S.W., Washington, DC 20410  
Telephone: (202) 708-1112 [Find the address of a HUD office near you](#)

This page is located on the U.S. Department of Housing and Urban Development's Homes and Communities Web site at <http://www.hud.gov/local/index.cfm?STATE=va&TOPIC=offices>.



## Contact HUD: Virginia

The Director's Office is your first point of contact at HUD. If you have general questions about HUD or its programs, please call or email us.

### Richmond Office

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William "Bill" Miles, Field Office Director

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Monday through Friday

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